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Docket No.: 1538.1015

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Naoyuki FUJISAWA, et al.

Serial No. 09/891,204

Group Art Unit: 3622

Confirmation No. 9335

Filed: June 25, 2001

Examiner: Daniel Lastra

For: METHOD AND SYSTEM FOR TRANSFERRING COMMUNICATION FEE

**LETTER TO THE EXAMINER REQUESTING WITHDRAWAL OF THE FINALITY OF THE
PRESENT OFFICE ACTION SINCE THE ACTION IS INCOMPLETE**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attention: **BOX AF**

Sir:

The Final Office Action mailed May 19, 2006 (current Action) rejects claims 1-3, 5-9, 11-15 and 17-19 under 35 U.S.C. §103(a) as being unpatentable over Meuronen (U.S. 6,473,622) and claims 4, 10, and 16 under 35 U.S.C. §103(a) as being unpatentable over Meuronen in view of Jacobs (U.S. 2004/0039784). These rejections are the same as in the previous Office Action mailed December 6, 2005 (previous Action).

In support of the rejection of claims 1-3, 5-9, 11-15 and 17-19, the Examiner states:

[T]he bigger the number of messages sent by said advertisers that are relayed by an operator and received directly by said destination users, the more said advertisers (i.e. sender) would have to pay to cover the expenses of said distribution.

(Current Action at page 5).

This statement was also made by the Examiner in the previous Office Action. Applicants filed an Amendment on March 6, 2006 traversing the rejections of the previous Office Action and demanded the Examiner produce authority for the statement. (See, M.P.E.P. §2144.03(e)). Applicants also requested an affidavit to support the Examiner's assertion if the Examiner also based the rejection, at least in part, on personal knowledge, as required under 37 C.F.R. § 1.104(d)(2).

However, in the current Final Office Action, the Examiner has not provided support of this repeated statement nor provided an affidavit to support the assertion.

Accordingly, Applicants respectfully submit that the finality of the current Office Action is premature since the current Action is incomplete. Applicants respectfully request the withdrawal of the finality of the current Office Action and a new Office Action issued providing the required support and having the response date reset.

Respectfully submitted,

STAAS & HALSEY LLP

Date: August 8, 2006

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